



CITY OF MEMPHIS

COUNCIL AGENDA

July 21, 2009

Public Session Tuesday, 3:30 p.m.

Council Chambers, First Floor, City Hall

125 North Main Street

Memphis, Tennessee 38103-2017

CALL TO ORDER by the Sergeant-at-Arms

INVOCATION

PLEDGE OF ALLEGIANCE

CALL OF ROLL by the Comptroller

APPROVAL OF PREVIOUS MEETING MINUTES (July 7, 2009)

ANNOUNCEMENT FOR APPEARANCE CARDS FOR PUBLIC SPEAKING

ITEMS HELD OR DROPPED FROM THE AGENDA

PRESENTATIONS AND RECOGNITION OF VISITORS

1. RESOLUTION approving an honorary street name change of Shady Lane in honor of Mrs. Georgia A. Moss-Davis (1910-1988).

Fullilove

ACTION REQUESTED: Adopt the resolution

PUBLIC HEARINGS

2. RESOLUTION approving a planned development located on the northeast corner of Elzey Avenue and Tanglewood Street, containing 0.904 acre in the Local Industrial (I-L) District.

Morrison

Case No. PD 09-303

Applicant: The Cowles Company (Bernard Cowles)
SR Consulting, LLC – Cindy Reaves – Representative

Request: 10 residential lots (typical lot size 2,058 square feet)

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

104 NOTICES MAILED ON JULY 10, 2009

3. RESOLUTION approving a planned development located on the west side of Lamar; +/- 750 feet south of Davidson Road, containing 35.41 acres in an area currently governed by the approved conditions for P.D. 04-359cc.

Morrison

Case No. PD 09-306

Applicant: William B. and Paula F. Crow
SR Consulting, LLC – Cindy Reaves – Representative

Request: Tractor trailer storage and parking accommodation

LUCB recommendation: APPROVAL, with conditions

OPD recommendation: REJECTION

ACTION REQUESTED: Take whatever action Council deems advisable

10 NOTICES MAILED ON JULY 10, 2009

4. RESOLUTION approving a planned development located on the north side of Monroe Avenue; +/-120.8 feet east of Belvedere Boulevard, containing 0.269 acre in the Multiple Dwelling Residential (R-MH) District.

Morrison

Case No. PD 09-307

Applicant: Community Capital LLC (Archie Willis, III)
Paul Young – Representative

Request: Single tenant office building

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

65 NOTICES MAILED ON JULY 10, 2009

5. RESOLUTION approving a planned development located on the north side of Nelson Avenue; ±550 feet west of Tanglewood Street, containing 0.31 acre in the Single Family Residential (R-S6) District.

Morrison

Case No. PD 09-308

Applicant: Natural Learning School, Dalila Early, Director

Request: Group Daycare Home in two existing houses

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

127 NOTICES MAILED ON JULY 10, 2009

6. RESOLUTION approving a special use permit located on the north side of Bolen Huse Road; +/-840 feet west of Coleman Road, containing 122.50 acres in the Single Family Residential (R-S10) District.

Morrison

Case No. SUP 09-206cc

Applicant: Tower Ventures V, LLC
Tower Ventures V, LLC – Representative

Request: Allow a cell tower one-hundred ninety-five (195) feet in height
with the ability to support six (6) sets of antennae arrays

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

103 NOTICES MAILED ON JULY 10, 2009

7. RESOLUTION approving a special use permit located on the southeast corner of W. Shelby Drive and Jonetta Street, containing 1.01 acres in the Single Family Residential (RS-6) District.

Morrison

Case No. SUP 09-207

Applicant: David Grayson Ministries, Inc.
Allen & Hoshall, Inc. (Jay Caughman) – Representative

Request: Group Home for women (maximum number 11)

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

56 NOTICES MAILED ON JULY 10, 2009

DIVISION OF PLANNING & DEVELOPMENT

8. RESOLUTION approving a use variance located on the corner of South Third Street and Clinton Road, on the northwest side of Third and the north east side of the Intersection of Clinton, containing 1.123 acres in the Highway Commercial (C-H) and Single Family Residential (R-S6) Districts.

Morrison

Case No. UV 08-13

Applicant: Travis Wilmath

Request: Motor Vehicle Service use on entire property

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

No Opposition at LUCB; No Public Hearing Required

9. RESOLUTION approving a use variance located on the west side of North Second Street at Plum and Pear Avenues, containing 8.40 acres in the Mixed Use (MU) District.

Morrison

Case No. UV 09-02

Applicant: Harbor View Properties, Inc.
SR Consulting, LLC – Representative

Request: Use variance to allow an eighteen (18) bed hospital

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

No Opposition at LUCB; No Public Hearing Required

10. RESOLUTION approving a use variance located on the west side of South Bellevue, south of Linden Avenue, containing 7,144 square feet in the Hospital (H) District (Medical Center Overlay).

Morrison

Case No. UV 09-03

Applicant: Nyanday Oti
Ryan Edwards – Representative

Request: Pharmacy in an existing building

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Take whatever action Council deems advisable

No Opposition at LUCB; No Public Hearing Required

11. RESOLUTION approving a street name change of a public alley parallel to and south of Union Avenue between Front Street and Wagner Place.

Morrison

Case No. SNC 09-802

Request: Name a currently unnamed alley to Jack Tucker Alley

LUCB and OPD recommendation: APPROVAL

No Opposition at LUCB; No Public Hearing Required

ZONING ORDINANCE – THIRD AND FINAL READING

12. ORDINANCE rezoning the southwest corner of Raines Road and Graceland Street, containing 0.112 acre in the Single Family Residential (R-S10) District, up for T H I R D and F I N A L reading. (Held from 6/2; 7/21)

Morrison

Ordinance No. 5315

Case No. Z 09-101

Applicant: Shelby County Government
Tom Moss, Shelby County Real Estate Office – Representative

Request: Planned Commercial (C-P) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Take whatever action Council deems advisable

40 NOTICES WERE MAILED ON MAY 22, 2009



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CONSENT AGENDA

GENERAL ORDINANCES - FIRST READING

13. **ORDINANCE** to amend Chapter 21, Article III, of the Code of Ordinances, so as to prohibit using Text Messaging Services while operating a motor vehicle, up for F I R S T reading.

Hedgepeth

Ordinance No. 5324

ACTION REQUESTED: Adopt the ordinance on First reading

14. **ORDINANCE** to amend Chapter 21, Code of Ordinances, City of Memphis, to modify Section 21-80 (b) of the Traffic Control Photographic System Requirements, up for F I R S T reading.

Hedgepeth

Ordinance No. 5325

ACTION REQUESTED: Adopt the ordinance on First reading

GENERAL ORDINANCES - SECOND READING

15. **ORDINANCE** to amend Chapter 25, Code of Ordinances, City of Memphis, so as to increase Pension Benefits allowable under Section 25-95 and 25-195, up for S E C O N D reading.

Flinn

Ordinance No. 5321

ACTION REQUESTED: Adopt the ordinance on Second reading

16. **ORDINANCE** to amend Chapter 7, Code of Ordinances, City of Memphis, so as to decrease the membership of the Board of Directors of the Center City Commission, up for S E C O N D reading.

Flinn

Ordinance No. 5322

ACTION REQUESTED: Adopt the ordinance on Second reading

17. **ORDINANCE** amending Chapter 2, Article V, Division 3, of the Code of Ordinances, to establish a City of Memphis Fleet and Employee Take Home Vehicle Policy, up for S E C O N D reading.

Flinn

Ordinance No. 5323

ACTION REQUESTED: Adopt the ordinance on Second reading

ZONING ORDINANCE - FIRST READING

18. **ORDINANCE** amending Ordinance No. 4647, by correcting an administrative error in the legal description of the property rezoned from (AG) to (I-L) which was approved by Memphis City Council on March 2, 1999. This property is located on the north side of Holmes Road, +/-1,640 feet east of Lamar Avenue, up for F I R S T reading.

Morrison

Ordinance No. 5326
Case No. Z 98-157cc

Applicant: Imad Nahhas/OPD

Request: Correct the faulty legal description of the property re-zoned from A-G to I-L District as approved by the Memphis City Council on March 2, 1999

OPD recommendation: APPROVAL, of the corrected legal description

LUCB recommendation: APPROVAL, of the rezoning of this property on December 10, 1998

ACTION REQUESTED: Adopt the ordinance on First reading

NO NOTICES WERE REQUIRED

ZONING ORDINANCE - SECOND READING (None)

ENGINEERING

19. RESOLUTION approving final plat of TRINITY PARK P.D., PHASE 1.

Case No. PD 07-311
Contract No. CR-5141

Resolution approves the final plat located on the east side of East Oaks Drive. Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

20. RESOLUTION approving final plat of TRINITY PARK P.D., PHASE 2.

Case No. PD 07-311
Contract No. CR-5142

Resolution approves the final plat located on the east side of East Oaks Drive, south of Winchester Road. Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

21. RESOLUTION approving final plat of TRINITY PARK P.D., PHASE 3.

Case No. PD 07-311

Contract No. CR-5143

Resolution approves the final plat located on the east side of East Oaks Drive, south of Winchester Road. Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

22. RESOLUTION accepting BUMPUS MCS MANASSAS SUBDIVISION and authorizing release of bond.

Case No. S 04-040

Contract No. (CR-5026)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located at the Terminus of Marble and Manassas. The standard improvement contract was approved on August 1, 2006. Resolution also authorizes the release of the performance bond in the amount of \$162,000.00.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

23. RESOLUTION accepting RIVERDALE/RAINES C-P, PHASE 3 and authorizing release of bond.

Case No. Z 02-360

Contract No. (CR-5135)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located at the northwest corner of Riverdale and Raines. The standard improvement contract was approved on February 17, 2009. Resolution also authorizes the release of the performance bond in the amount of \$213,400.00.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

24. RESOLUTION accepting WINCHESTER/HACKS CROSS ROAD PD – SIGNAL at WINCHESER ROAD and CENTENNIAL DRIVE and authorizing release of bond.

Case No. PD 02-304cc

(Contract No. CR-4953)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located at the intersection of Winchester Road and Centennial Drive. The standard improvement contract was approved on June 21, 2005. Resolution also authorizes the release of the certificate of deposit in the amount of \$37,500.00.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

NOTATIONS FROM OPD

25. **NOTATIONS** from Land Use Control Board that the following cases were heard and recommendation made requesting a date of public hearing:

A. Case No. PD 09-309cc – Stansell Crossing P.D., Parcel 9

Located on the northeast corner of Lowrance Road; +/-331.38 feet east of Stansell Court, containing 3.76 acres in an area regulated by the approved conditions for Parcel 9 of the Stansell Crossing Planned Development (P.D. 00-311cc)

Applicant: Tower Ventures, LLC (Billy Orgel)
Prime Development Group, Inc. – Mike Fahy - Representative

Request: Communication Tower (190 ft. tall)

LUCB and OPD recommendation: APPROVAL, with conditions

B. Case No. PD 09-312 – I-40/Germantown Parkway P.D., 3rd Amendment

Located on the southeast corner of Germantown Parkway and U.S. Highway 64, containing 120.38 acres in an area regulated by the approved conditions for the I-40/Germantown Parkway Planned Development (P.D. 06-336)

Applicant: Simeon Properties, Inc. (Keith Stewart)
ETI Corporation (Rodney Joyner) – Representative

Request: Amend existing conditions to allow Retail Sales Outdoor

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Set a date of public hearing

SUGGESTED DATE: August 4, 2009



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MLGW FISCAL CONSENT

26. RESOLUTION awarding Contract No. 11318, McCord Pumping Station Boiler Replacement, to Quality Mechanical Contractor, Inc. in the funded amount of \$105,886.00.
27. RESOLUTION awarding Contract No. 11346, ESO/UPS Battery Replacement, to Electronic Power Systems, Inc. in the funded amount of \$27,410.00.
28. RESOLUTION approving Change No. 3 to Contract No. 11178, Internet Services, with Paetec Business Services in the funded amount of \$22,330.00, for a new contract value of \$91,930.00. (This change is to upgrade the existing system's bandwidth from 10Mb/s to 20Mb/s Metro Ethernet).
29. RESOLUTION approving Change No. 1 to Contract No. 11281, Maintaining MLGW Archival Documents, with Vital Records Control, Inc. in the funded amount of \$28,269.00. (This change renews the contract for the first of four renewal terms, July 14, 2009 through July 13, 2010, with no increase in cost).
30. RESOLUTION renewing contract, Purchase Order No. 135584, with Mercury Instruments, Inc., for the period December 17, 2009 to December 18, 2010, for electronic volume correcting devices in the amount of \$224,900.00.
31. RESOLUTION awarding contract for molecular sieve material to Hengye USA in the amount of \$45,850.00.
32. RESOLUTION approving the employment of Stinson, Morrison, Hecker LLP for legal services on an as-needed basis at agreed-upon hourly rates.
33. RESOLUTION approving full and final settlement of all claims by the City of Memphis and Joseph Lee, III in an amount up to \$426,422.33.
34. RESOLUTION approving a contract between Memphis Light, Gas and Water, Nashville Electric Service and GDS Associates, Inc. for professional consulting services for NERC registration requirements, \$44,100.00 as a cost to MLGW, for a total amount not to exceed \$88,200.00.



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REGULAR AGENDA

BUDGET ITEM

35. RESOLUTION approving the Memphis City Schools' Budget for 2009-2010.

Fullilove

ACTION REQUESTED: Adopt the resolution

- 36.

Flinn

APPOINTMENTS

Memphis City Beautiful Commission

Reappointments

LeAndre M. Gibson
Jennifer Littlejohn
Carol Ann Mallory
Sandra Upchurch

Appointments

Jonas Glynn Bari
Suzanne Henley
Peggy Owen
James Nicholas Robbins
Martina Stanley
Anne C. Waring

Memphis & Shelby County Sports Authority

Reappointment

D. W. (Bill) McGaughey

GENERAL ORDINANCES -THIRD AND FINAL READING

37. **ORDINANCE** to amend Chapter 21, Article IX, Code of Ordinances, City of Memphis, as to update regulations for the Inspection of Motor Vehicles, up for T H I R D and F I N A L reading. (Held from 6/16)

Brown

Ordinance No. 5317

ACTION REQUESTED: Take whatever action Council deems advisable

38. **ORDINANCE** fixing Tax Rate of the City of Memphis for the Board of Education of the Memphis City Schools, up for T H I R D and F I N A L reading. (Held from 7/7)

Lowery

Ordinance No. 5319

ACTION REQUESTED: Take whatever action Council deems advisable

39. **ORDINANCE** amending Chapter 20, Section 20-21 so as to exercise the City of Memphis Government's Statutory Option to opt out of any State Law that would authorize the carrying of Firearms on Public Parks, Playgrounds, Civic Centers, and other Public Recreational buildings and grounds, up for T H I R D and F I N A L reading.

Hedgepeth

Ordinance No. 5320

ACTION REQUESTED: Take whatever action Council deems advisable

ENGINEERING DIVISION (None)

EXECUTIVE DIVISION

40. RESOLUTION accepting grant funds in the amount of Three Million Two Hundred Fifty Nine Thousand Five Hundred Nineteen Dollars (\$3,259,519.00) from the State of Tennessee Department of Labor and Workforce Development Division for WIA Title One Youth Funds. Resolution also amends the FY 2009 Operating Budget to establish and appropriate grant funds.

Collins

ACTION REQUESTED: Adopt the resolution

41. RESOLUTION accepting grant funds in the amount of Twenty Six Thousand Two Hundred Fifty Dollars (\$26,250.00) from the State of Tennessee Department of Labor and Workforce Development Division for WIA Title One Statewide Activities Fund. Resolution also amends the FY 2009 Operating Budget to establish and appropriate grant funds.

Collins

ACTION REQUESTED: Adopt the resolution

FINANCE & ADMINISTRATION (None)

DIVISION OF FIRE SERVICES (None)

DIVISION OF GENERAL SERVICES (None)

DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT (None)

DIVISION OF HUMAN RESOURCES (None)

LAW DIVISION (None)

MLGW DIVISION (None)

PARK SERVICES (None)

DIVISION OF POLICE SERVICES

42. RESOLUTION accepting grant funds from the DOJ/Office on Violence against Women (OVW)/Compass Coordination, Inc., in the amount of \$13,750.00. Resolution also amends the FY 2009 Operating Budget to establish and appropriate grant funds.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

DIVISION OF PUBLIC SERVICES (None)

DIVISION OF PUBLIC WORKS (None)

GENERAL ITEMS (None)

APPEARANCE CARDS FOR PUBLIC SPEAKING

ADJOURNMENT

ADD-ONS

25. **NOTATION** from Land Use Control Board that the following case was heard and recommendation made requesting a date of public hearing:

Consent

C. **Case No. SAC 09-602** – Poplar Avenue Alley

Located within the existing Juvenile Court Parking Lot between Poplar Avenue and Washington Avenue, containing .23 acre

Applicant: Shelby County Government
ETI Corporation – Representative

Request: Close the alley to permit construction of a new Regional Forensics Center

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Set a date of public hearing

SUGGESTED DATE: August 4, 2009

43. **RESOLUTION** approving final plat of FULMER/GUENTHER SUBDIVISION.

Consent

Case No. S 09-006

Resolution approves the final plat located on the south side of Walnut Grove Road, 252.55 feet east of East Cherry Road. Cost of the required improvements to be borne by the developer.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

44. **RESOLUTION** amending the FY10 Special Revenue Fund Budget by accepting and appropriating grant funds in the amount of \$50,000.00 in Federal funds for transportation planning activities.

Boyd

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

45. RESOLUTION amending the FY10 CIP Budget by accepting and appropriating grant funds in the amount of \$6,103,585.00 funded with 100% Federal Surface Transportation Program grant funds passed through the Tennessee Department of Transportation for the Signal Coordination Project.

Boyd

ACTION REQUESTED: Adopt the resolution

46. RESOLUTION amending the FY10 CIP Budget by accepting and appropriating grant funds in the amount of \$5,494,500.00 funded with 100% Federal Surface Transportation Program grant funds passed through the Tennessee Department of Transportation for the NW Signal Coordination Project.

Boyd

ACTION REQUESTED: Adopt the resolution

47. RESOLUTION amending the FY10 CIP Budget by accepting and appropriating grant funds in the amount of \$2,500,000.00 funded with 100% Federal Surface Transportation Program grant funds passed through the Tennessee Department of Transportation for the Shelby Drive Signal Coordination Project.

Boyd

ACTION REQUESTED: Adopt the resolution

48. RESOLUTION amending the FY10 CIP Budget by accepting and appropriating grant funds in the amount of \$1,050,000.00 funded with 100% Federal Surface Transportation Program grant funds passed through the Tennessee Department of Transportation for the East CEI Signal Coordination Project.

Boyd

ACTION REQUESTED: Adopt the resolution

49. RESOLUTION amending the FY10 CIP Budget by accepting and appropriating grant funds in the amount of \$848,715.00 funded with 100% Federal Surface Transportation Program grant funds passed through the Tennessee Department of Transportation for the Poplar/Germantown Signal Coordination Project.

Boyd

ACTION REQUESTED: Adopt the resolution

50. RESOLUTION amending the FY10 CIP Budget by appropriating \$740,000.00 in G.O. Bonds General to Traffic Signals (EN01004) in Furniture, Fixtures and Equipment for the purchase of equipment used in the installation of traffic signals by City forces.

Boyd

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

51. RESOLUTION amending the FY10 CIP Budget and appropriating funds by transferring an allocation of \$2,830,300.00 funded by Sewer Funds from Rehab Existing Sewers (SW02001) to Maxson Raw Sewage Header Project (SW02080) for a construction contract with W. L. Hailey and Company, Inc.

Boyd

ACTION REQUESTED: Adopt the resolution

52. RESOLUTION amending the FY10 CIP Budget by accepting and appropriating grant funds in the amount of \$402,500.00 funded with 100% Federal Surface Transportation Program grant funds passed through the Tennessee Department of Transportation for the Railroad Signs and Markings Project.

Boyd

ACTION REQUESTED: Adopt the resolution

53. RESOLUTION declaring July 20-24, 2009 as “National Black Prosecutors Association Week” in Memphis.

Collins

ACTION REQUESTED: Adopt the resolution

54. RESOLUTION encouraging the Shelby County Board of Equalization to consider the effect of foreclosures, bank REO sales and/or deeds-in-lieu-of-foreclosure on home values.

Halbert

ACTION REQUESTED: Adopt the resolution

55. RESOLUTION restoring \$503,480.00 into Community Enhancement Budget, for FY 2009 - 2010 Budget.

Ford

ACTION REQUESTED: Adopt the resolution

ACTION TAKEN BY COUNCIL ON THIS DATE

1. Approved
2. Through 6 – Approved, as amended
7. & 8 – Approved, as amended

- 9. Through 11 – Approved
- 12. Approved, as amended
- 13. Through 24 – Approved
- 25. Public Hearing Set for August 4, 2009
- 26. 32 – Approved
- 33. Held until August 18, 2009
- 34. Approved
- 35. Held until August 4, 2009
- 36. Approved
- 37. Approved, as amended
- 38. Held until August 4, 2009
- 39. Through 54 – Approved
- 55. Approved, as amended

ACTION TAKEN ON THE MINUTES OF JULY 7, 2009 MEETING

Approved, as amended - (Item #22 – Iris Motel Hotel Waiver, was pulled from these minutes and sent back to Committee on August 18, 2009. Item #30 – Special Election for the Office of the Mayor, was pulled from these minutes and voted on separately)

ACTION TAKEN ON THE MINUTES OF ITEMS #34, #44, #45, #46, #47, #48, #49, #50, #51, #52 & #55 FROM TONIGHT'S MEETING

Approved